



2026:DHC:135-DB



*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Reserved on: 16th September, 2025

Pronounced on: 9th January, 2026

Date of Uploading: 9th January, 2026

+ W.P.(C) No.2140 of 2019

HIND SAMRAJYA PARTY
(ELECTION COMMISSION REGISTRATION
NO.56/187/2018-18PPS-1)

HEAD OFFICE AT 512/695 K/1
WALDA ROAD, NISHAT GANJ,
LUCKNOW, U.P.

THROUGH ITS GENERAL SECRETARY,
SMT. BANDANA KUMAR,
AGED ABOUT 38 YEARS,
W/O SHRI A.K.SINGH
R/O. 306, TAGORE TOWN,
TEHSIL SADAR,
DISTRICT ALLAHABAD, U.P.

.....PETITIONER

Through: Mr. Parth Yadav, Advocate.

versus

1. UNION OF INDIA

THROUGH THE SECRETARY,
MINISTRY OF LAW & JUSTICE, LEGISLATIVE DEPARTMENT
CENTRAL SECRETARIAT, NEW DELHI. **...RESPONDENT NO.1**

2. ELECTION COMMISSION OF INDIA

THROUGH ITS. SECRETARY
NIRVACHANSADAN,
ASHOK ROAD, NEW DELHI-110001. **...RESPONDENT NO.2**

3. CHIEF ELECTION COMMISSIONER,

Signature Not Verified

Signed By: AKASH
YADAV
Signing Date: 09.01.2026
16:43:35



ELECTION COMMISSION OF INDIA,
NIRVACHANSADAN,
ASHOK ROAD, NEW DELHI-110001.

...RESPONDENT NO.3

4. ALL INDIA TRINAMOOL CONGRESS
THROUGH ITS GENERAL SECRETARY,
OFFICE AT 36G TOPSIA ROAD,
KOLKATA-700039, WEST BENGAL.

...RESPONDENT NO.4

5. BAHUJAN SAMAJ PARTY
THROUGH ITS GENERAL SECRETARY
OFFICE AT 12, GURUDWARA RAKABGANJ ROAD,
NEW DELHI-110001.

...RESPONDENT NO.5

6. BHARATIYA JANATA PARTY
THROUGH ITS GENERAL SECRETARY
OFFICE AT 6-A, DEENDAYAL UPADHYAYA
MARG, NEW DELHI-110002.

...RESPONDENT NO.6

7. COMMUNIST PARTY OF INDIA
THROUGH ITS GENERAL SECRETARY,
OFFICE AT INDRAJIT GUPTA MARG,
NEW DELHI-110002.

...RESPONDENT NO.7

8. COMMUNIST PARTY OF INIA (MARXIST)
THROUGH ITS GENERAL SECRETARY,
OFFICE AT BHAI VIR SINGH MARG,
NEW DELHI-110001.

...RESPONDENT NO.8

9. INDIAN NATIONAL CONGRESS
THROUGH ITS GENERAL SECRETARY
OFFICE AT 24, AKBAR ROAD,
NEW DELHI-110001.

...RESPONDENT NO.9

10. NATIONALIST CONGRESS PARTY
THROUGH ITS GENERAL SECRETARY,

Signature Not Verified

Signed By: AKASH
YADAV
Signing Date: 09.01.2026
16:43:35



2026:DHC:135-DB



OFFICE AT 10, BISHWAMABHAR MARG,
NEW DELHI-110001.

...RESPONDENT NO.10

11. RASHTRIYA LOK DAL

THROUGH ITS GENERAL SECRETARY
OFFICE AT 406 V.P.HOUSE, RAFI MARG,
NEW DELHI-110001

...RESPONDENT NO.11

12. SAMAJWADI PARTY

THROUGH ITS GENERAL SECRETARY,
OFFICE AT 19 VIKRAMADITYA MARG,
LUCKNOW-226001
UTTAR PRADESH.

...RESPONDENT NO.12

Through: Mr. Piyush Beriwal, Ms. Jyotshna Vyas, Ms. Ruchita Srivastava and Ms. Amisha P. Dash, Advocates for Respondent no.1.
Ms. Suruchi Suri, Standing Counsel, ECI with Mr. Siddharth Kumar, Advocate for Respondent nos. 2 and 3.

CORAM:

HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

NITIN WASUDEO SAMBRE, J.

1. This writ petition is under Article 226 of the Constitution of India by a political party who allegedly claims to be registered with the respondent no.2 - Election Commission of India, vide Registration Certificate dated 31st October 2018, bearing Registration No.56/187/2018-18PPS-1. The prayers in the petition read thus:-

Signature Not Verified

Signed By: AKASH
YADAV
Signing Date: 09.01.2026
16:43:35



“(a) Issue an appropriate writ or direction or declaration to the effect that the Election Commission of India has no power or jurisdiction to frame the impugned The Election Symbols (Reservation and Allotment) Order, 1968.

(b) Issue an appropriate writ or direction striking down the impugned The Election Symbols (Reservation and Allotment) Order, 1968;

(c) Issue an appropriate writ or direction quashing the paragraphs 5(2), 6-A, 6-B and 6-C of The Election Symbols (Reservation and Allotment) Order, 1968;

(d) Issue an appropriate writ or direction in the nature of mandamus restraining the Election Commission of India from enforcing the provisions contained in paragraphs 5(2), 6A, 6B and 6C of The Election Symbols (Reservation and Allotment) Order, 1968;

(e) Issue an appropriate writ or direction directing the Respondents from enforcing any provision relating to a political party under the provisions of the Representation of People Act, 1951 till a valid rule is framed by the Central Government in exercise of the powers under Section 169 (1) of the said Act;

(f) Issue any other writ, order or direction as the Hon'ble Court may deem fit and proper to do complete justice in the case.

(g) Allow the petition with cost.”

2. The facts necessary for deciding the present petition are as under:-

a. The petitioner is claiming to be a juristic entity based on its registration with respondent no.2- Election Commission of India. Allegations of the petitioner party are that it intended to sponsor candidates in the State of Uttar Pradesh in the last



elections, which were held in the year 2024, and has tried to urge that it has approached this Court alleging discrimination at every stage of election.

b. It is the case of the petitioner that the respondent no.2 has illegally recognized the political parties at National or State level, who are granted privilege of availing special rights and facilities under the statutory provisions of Representation of People Act, 1951 (for the sake of brevity to be referred as '***the RP Act, 1951***').

c. It is the case of the petitioner that for the first time, law was enacted to restrict defection of MPs and MLAs from their parent political parties *i.e.* the party on whose sponsorship, they were elected to their respective seats. According to petitioner, by way of 52nd Amendment in the year 1985 by adding 10th Schedule to the Constitution of India, for the first time, the provision of disqualification for Anti Defection came to be introduced w.e.f. June 15, 1985.

d. According to the petitioner, under the Act no. 1 of 1989, conditions are laid down for registration of political parties.

e. It is the case pleaded by petitioner that pursuant to Section 169 of the RP Act 1951, the Central Government, in consultation with the Election Commission of India, can frame rules for carrying out the provisions of RP Act 1951. According to petitioner, as per the aforesaid statutory provision, the



respondent no.1-Union of India has not framed any rules. In absence of statutory provisions empowering the respondent no.2 to frame rules for carrying out the provisions of the RP Act, 1951, the respondent no.2 has exceeded its powers and has framed the above referred order.

f. Similarly, it is claimed that no rules are framed by respondent no.1 to carry out or make necessary provision for giving effect to Section 29-A of the RP Act, 1951.

g. It is claimed that respondent no.2-Election Commission of India has framed rules to give effect to the aforesaid Act no.1 of 1989 by amending the Election Symbols (Reservation and Allotment) Order 1968 (hereinafter shall be referred as 'Election Symbols Order, 1968).

h. According to the petitioner, a recognized 'Political Party' is not defined under the RP Act, 1951 and as such, the statutory mandate and obligation of framing of rules in the matter of recognition of political party to avail the privileges under the RP Act, 1951 are absent.

i. According to petitioner, after the addition of Section 29-A of RP Act, 1951 in the year 1989, the Central Government in exercise of powers under Sub-Section (1) of Section 169 of the RP Act 1951 can frame rules for carrying out the purpose of said Act.

j. It is the case of the petitioner that the petitioner has formed a



2026:DHC:135-DB



political party to achieve the goal and object contained in the Memorandum of Party by adopting the democratic principles.

k. The registration was accordingly granted by the respondent no.2 vide Certificate of Registration dated 31st October 2018. It is the case of the petitioner that Parliament by amendment added Section 33(1) and the first proviso to the said Section is discriminatory in nature as there is no legal basis to put a registered political party on a disadvantageous position without there being any valid reason for the same. According to petitioner, all the registered Political Parties forms a single class and there cannot be sub-classification between the parties like petitioner forming a single class. According to him, once a Political Party is registered with respondent no.2, there should be no discrimination in the matter of 'recognition of Political Party' or a 'registered Political Party'. Such act, according to the petitioner, is in violation of Article 14 of the Constitution of India as the very discrimination is placing the petitioner in disadvantageous position, making it difficult for the parties like petitioner to contest elections in view of the statutory privileges enjoyed by such political parties. For the above reasons, it is the case of the petitioner that Section 38(2) and (3) of the RP Act, 1951 are also discriminatory alongside Sub-Section (1) of Section 33 and its proviso.

1. According to petitioner, the net effect of the said provision

Signature Not Verified

Signed By: AKASH
YADAV
Signing Date: 09.01.2026
16:43:35



and the privileges thereunder are that the Voters will exercise first choice in favour of the existing political party in comparison with the newly registered political party like petitioner. He would further claim that Section 39-A(1) of the RP Act also confers certain undue privileges on the political party having regard to its past performance, thereby allotting equitable time on the cable television network and the other electronic media. He would claim that the political party contesting the election has a right to propagate its idea, manifesto by utilizing the public platforms and means which are equally available and shared by the recognized political party. He would further urge that Section 52 also confers undue weightage in the matter of death of a candidate set up by a recognized political party.

m. Similarly, the petitioner has questioned provisions of Section 77, 78-A & 78-B of the RP Act, thereby giving higher privilege in the matter of expenditure to be incurred in the conduct of election and the canvassing thereto. Similarly, the copies of voter list under Section 78-A & B are provided free of costs *i.e.* at the cost of public, without there being any justifiable reason, which provision in clear terms violates the mandate under Article 14 of the Constitution of India.

n. According to the petitioner, the Election Symbols Order, 1968, clarifies political party as a National or State Party,



whereas the parent Statute *i.e.* RP Act does not provide for any such discrimination or recognition as is provided under the Election Symbols Order, 1968.

o. Petitioner would, as such, urge that the discrimination by respondent no.2-Election Commission of India in the matter of Political Party as National and State recognized political party, particularly, in clause 6A, 6B and 6C of the Election Symbols Order, 1968 are without any legal basis.

p. It is his contention that the Election Symbols Order, 1968 though refers to the terms 'recognized political party' as referred to in the Explanation to Section 78-A of the RP Act 1951, the Symbols Order 1968, in such an eventuality, travels beyond the statutory provision.

q. Apart from above, it is claimed that Election Symbols Order 1968, particularly, sub-clause (2) of Clause 5 provides for the reservation of a Symbol for a recognized political party, which is allotted to the candidate who is sponsored or set up by such recognized political party. National or State level Political Parties with such allotted symbol can sponsor their candidature even before the election is declared, but in case of a newly born political party like the petitioner, it is only after the nomination is accepted, the symbols are awarded. It perhaps violates the very fundamentals of Article 14 of the Constitution of India, thereby meeting out discriminatory treatment to the parties like



petitioner as compared to that of National or recognized parties.

3. In the aforesaid background, the petitioner has sought to agitate the following questions of law which are framed in the petition viz.

“2.1 Whether Election Commission has power or jurisdiction to make any provision relating to and connected with political parties relating to their registration and recognition?”

2.2 Whether the Central Government is under obligation to frame rules in exercise of powers under Section 169 (1) of Representation of People Act, 1951 for giving effect to the provisions relating to political parties referred to in different provisions of the said Act?

2.3 Whether Parliament can confer any special right or privileges to the existing political parties recognized by the Election Commission as National/State level political parties over and above the newly born unrecognized political parties?

2.4 Whether all the political parties whether existing on newly born are entitled for the equal rights and privileges and there can be no distinction between them for any purpose?

2.5 Whether the provisions contained in proviso to Section 33(1), Section 38(2), Section 39-A, Section 52, Explanation 1 and 2 to Section 77, Section 78-A and 78-B occurring in part 5A and also the provisions contained in Section 169(bb) and 169(hh) of Representation of People Act, 1951 are ultra vires to Article 14 of the Constitution of India?

2.6 Whether the distinction made between recognized political party and political party is alien to Article 14 of the Constitution of India and same is being unreasonable and discriminatory are liable to be struck down?

2.7 Whether the Election Commission of India has power to lay down criteria declaring a political party as National or State



level party by laying down the criteria in para 6-A, 6-B and 6-C of Election Symbols (Reservation and Allotment) Order, 1968?

2.8 Whether impugned para 6-A, 6-B and 6-C contained in Election Symbols (Reservation and Allotment) Order, 1968 is non-est and inoperative?

2.9 Whether the provisions contained in paragraphs 5(2), 6A, 6B and 6C of Election Symbols (Reservation and Allotment) Order, 1968 are discriminatory and violative of Article 14 of the Constitution of India?"

4. The petitioner, as such, in the written submissions has claimed that the following issues are submitted for the determination of this Court as the said issues are at all not dealt by the Hon'ble Apex Court in the matter of **Anoop Baranwal Vs. Union of India** reported in **2023 6 SCC 161**.

5. In this background, learned counsel for the petitioner has urged that not only the Election Symbols Order 1968 is null and void, but is also liable to be struck down, thereby restraining the respondent nos.1 and 2 from implementing the provisions contained in para 6A, 6B and 6C of the said order. The aforesaid prayer is also sought to be supported by alleging that the Central Government in exercise of powers under Section 169 of the RP Act, 1951 has not framed the said order and the respondent no.2- Election Commission of India has no power to frame such order or rules for carrying out the provisions in its unilateral or independent way.

6. As against the above, the learned counsels appearing for respondents no.1, 2 and 3 have jointly sought dismissal of the petition by relying on certain Hon'ble Apex Court judgments, so also the Symbols



Order of 1968. The counsels appearing for the respondents have invited our attention to the very object with which, the RP Act 1951, so also the Symbols Order of 1968, came to be enacted.

7. According to counsels for the respondents, the petitioner who is an association or body of individual, citizens of India, registered with respondent no.2- Election Commission of India as a Political Party under Section 29A of RP Act, 1951 is not only bound by the parent Act *i.e.* RP Act, 1951, but also the Symbols Order of 1968. According to counsels for the respondents, all the issues which are sought to be canvassed by the petitioner in support of his contention for quashing the Symbols Order of 1968 being *ultra vires* the Constitution and being illegal for want of legislative competence, is settled by catena of judgments of the Hon'ble Apex Court.

8. Learned counsel for the respondents, in categorical terms, have invited our attention to the following judgments of the Hon'ble Apex Court:-

- i. ***Anoop Baranwal v. Union of India [(2023) 6 SCC 161];***
- ii. ***Sh. Sadiq Ali & Anr. v. Election Commission of India & Ors. [(1972) 4 SCC 664];***
- iii. ***Desiya Murpokku Dravida Kazhagam (DMDK) v. Election Commission of India [(2012) 7 SCC 340];***
- iv. ***P.J. Joseph v. Election Commission of India [2020 SCC Online Ker 5339];***
- v. ***V.K. Sasikala v. Election Commission of India and Ors [2019 SCC Online Del 7365];***
- vi. ***Chhotubhai Amarsang Vasava v. Election Commission of India & Anr. [W.P(C) No.10395 of 2017 of Hon'ble Delhi High Court];***



vii. *All Party Leader's Conference, Shillong v. M.A. Sangma & Ors.* [AIR 1977 Supreme Court 2155].

9. Based on the law laid down by the Hon'ble Apex Court in the aforesaid judgments, it is the contention of learned counsels appearing for the respondents that the Hon'ble Apex Court having interpreted Article 324 of the Constitution of India in the matter of *All Party Leader's Conference, Shillong (referred supra)* along with Rules 5 and 10 of the Conduct of Election Rules has held that Symbols Order of 1968 is a compendium of directions in the shape of general provisions to meet various kinds of situations occurring during the Elections with particular reference to Symbols. According to them, the Hon'ble Apex Court has already held that the Commission is empowered with its own right under the aforesaid Article 324 so also Rules 5 and 10 of Conduct of Election Rules to make directions in general in the widest terms necessary and also in specific cases in order to facilitate free and fair elections.

10. Learned counsels appearing for the respondents would further urge that the Symbols Order of 1968 does not confer a vested or indefeasible right in any political party as it is necessary for a political party to have benefit under the Act of 1968 to scrupulously comply with the directions and instructions. As such, it is claimed that the recognition and entitlement to a reserved symbol to a recognized party, are not absolute in nature, but are contingent upon compliance with the electoral discipline.

11. As such, it is claimed that the legislative source of Symbols Order of 1968 is held to be under Article 324 of the Constitution read with Rules 5 and 10 of the Conduct of Election Rules.



12. That being so, the dismissal of the petition is sought.

13. We have considered the rival claims in light of the position of law as is sought to be demonstrated by the respective counsels before this Court.

14. We are required to be sensitive to the provisions of Sections 169, 29-A, 33, 38, 39-A, 52, 77, 78-A and 78-B of the RP Act 1951. The theory sought to be canvassed by the petitioner of the provisions referred to above being discriminatory, are based on the requirement of proposers, status of a Political Party, denial of equitable sharing of time on Cable TV Network and electronic media, consequences of death of the candidate upon the elections, expenses of 40 leaders not to be counted and non-entitlement of electoral roll free of cost to the parties like petitioner.

15. The issue as regards powers of the Election Commission *i.e.* respondent no.2 to frame the Symbols Order of 1968 was considered by the Hon'ble Apex Court for the first time in the judgment of ***Sh. Sadiq Ali & Ors. v. Election Commission of India*** (referred *supra*). The Hon'ble Apex Court in paragraphs 15 and 40 of the said judgment has made the following observation:-

“15. Before dealing with the contentions advanced in appeal, it may be apposite to refer to the relevant provisions. Article 324 of the Constitution provides inter alia that the superintendence, direction and control of the preparation of electoral rolls for and the conduct of all elections to Parliament and Legislative Assemblies of the States and all elections to the offices of President and Vice-President held under the Constitution shall be vested in the Commission. According to Section 169 of the Representation of the People Act, 1951 (Act 43 of 1951), the Central Government may, after consulting the Election Commission by notification in the Official Gazette,



make rules for carrying out the purposes of the Act. Without prejudice to the generality of the foregoing power, sub-section (2) enumerates some of the matters for which provision may be made in the rules. Sub-section (3) requires that the rules framed should be laid before each House of Parliament. Conduct of Elections Rules, 1961 were thereafter framed by the Central Government. Rule 5 of those rules requires the Commission to specify the symbols that may be chosen by candidates at elections in Parliamentary and Assembly elections and the restrictions to which that choice shall be subject. Rule 10 makes provision for allotment of symbols to the contesting candidates by the Returning Officer subject to general or special directions issued by the Commission.

.....

40. It would follow from what has been discussed earlier in this judgment that the Symbols Order makes detailed provisions for the reservation, choice and allotment of symbols and the recognition of political parties in connection therewith. That the Commission should specify symbols for elections in parliamentary and assembly constituencies has also been made obligatory by Rule 5 of Conduct of Election Rules. Sub-rule (4) of Rule 10 gives a power to the Commission to issue general or special directions to the Returning Officers in respect of the allotment of symbols. The allotment of symbols by the Returning Officers has to be in accordance with those directions. Sub-rule (5) of Rule 10 gives a power to the Commission to revise the allotment of a symbol by the Returning Officers in so far as the said allotment is inconsistent with the directions issued by the Commission. It would, therefore, follow that Commission has been clothed with plenary powers by the abovementioned Rules in the matter of allotment of symbols. The validity of the said Rules has not been challenged before us. If the Commission is not to be disabled from exercising effectively the plenary powers vested in it in the matter of allotment of symbols and for issuing directions in connection therewith, it is plainly essential that the Commission should have the power to settle a dispute in case claim for the allotment of the symbol of a political party is made by two rival claimants. In case, it is a dispute between two individuals, the



method for the settlement of that dispute is provided by para 13 of the Symbols Order. If on the other hand, a dispute arises between two rival groups for allotment of a symbol of a political party on the ground that each group professes to be that party, the machinery and the manner of resolving such a dispute is given in para 15. Para 15 is intended to effectuate and subserve the main purposes and objects of the Symbols Order. The paragraph is designed to ensure that because of a dispute having arisen in a political party between two or more groups, the entire scheme of the Symbols Order relating to the allotment of a symbol reserved for the political party is not set at naught. The fact that the power for the settlement of such a dispute has been vested in the Commission would not constitute a valid ground for assailing the vires of and striking down para 15. The Commission is an authority created by the Constitution and according to Article 324, the superintendence, direction and control of the electoral rolls for and the conduct of elections to Parliament and to the Legislature of every State and of elections to the office of President and Vice-President shall be vested in the Commission. The fact that the power of resolving a dispute between two rival groups for allotment of symbol of a political party has been vested in such a high authority would raise a presumption, though rebuttable, and provide a guarantee, though not absolute but to a considerable extent, that the power would not be misused but would be exercised in a fair and reasonable manner.

16. The said judgment is further followed in the matter of **All Party Leader's Conference, Shillong** (referred supra), wherein the Hon'ble Apex Court has made the following observations:-

“32. It is not necessary in this appeal to deal with the question whether the Symbols Order made by the Commission is a piece of legislative activity. It is enough to hold, which we do, that the Commission is empowered on its own right under Article 324 of the Constitution and also under Rules 5 and 10 of the Rules to make directions in general in widest terms necessary and also in specific cases in order to facilitate a free and fair election with



promptitude. It is, therefore, legitimate on the part of the Commission to make general provisions even in anticipation or in the light of experience in respect of matters relating to symbols. That would also inevitably require it to regulate its own procedure in dealing with disputes regarding choice of symbols when raised before it. Further that would also sometimes inevitably lead to adjudication of disputes with regard to recognition of parties or rival claims to a particular symbol. The Symbols Order is, therefore, a compendium of directions in the shape of general provisions to meet various kinds of situations appertaining to elections with particular reference to symbols. The power to make these directions, whether it is a legislative activity or not, flows from Article 324 as well as from Rules 5 and 10. It was held in Sadiq Ali that “if the Commission is not to be disabled from exercising effectively the plenary powers vested in it in the matter of allotment of symbol and for issuing directions in connection therewith, it is plainly essential that the Commission should have the power to settle a dispute in case claim for the allotment of the symbol of a political party is made by two rival claimants”. It has been held in Sadiq Ali that the Commission has been clothed with plenary powers by Rule 5 and sub-rules (4) and (5) of Rule 10 of the Rules in the matter of allotment of symbols.”

17. Perusal of the aforesaid observation would make it clear that the power to frame the Symbols Order of 1968 flows from Article 324 of the Constitution, so also, the Rules 5 and 10 of the Conduct of Election Rules. A careful perusal of the aforesaid observations of the Hon’ble Apex Court would *ex-facie* evolve that not only the Hon’ble Apex Court has examined the very source of powers of respondent no.2 to frame the Symbols Order of 1968, but also that of the nature of the contents of the said Order of 1968. The Hon’ble Apex Court has already held that it is under Article 324 of the Constitution, so also Rules 5 and 10 of the Conduct of Election



Rules so as to achieve the very purpose and object of having free and fair elections, the respondent no.2 is armed with the power to frame the said Order. The order is compendium of directions in the shape of general provision to deal with the situations appertaining to the elections in relation to the symbols.

18. Para 16 of the judgment in the matter of **Sh. Sadiq Ali** (*referred supra*) in clear terms deals with each of the paragraphs of the compendium, viz. the Symbols Order, 1968, as regards the contentions which are sought to be relied on by the petitioner so as to demonstrate his case of discrimination.

19. The Hon'ble Apex Court, in paragraph 40 of the judgment of **Sh. Sadiq Ali** (*referred supra*), in categorical terms, has held that the Commission has been clothed with plenary power by the Election Rules.

20. Similarly, in the matter of **Desiya Murpokku Dravida Kazhagam (DMDK)** (*cited supra*), the Hon'ble Apex Court was dealing with constitutional validity of the Election Symbols, wherein the Hon'ble Apex Court held that the said issue was already decided by the judgment in the matter of **Sh. Sadiq Ali** (*referred supra*).

21. Para 10 of the judgment in the matter of **Desiya Murpokku Dravida Kazhagam (DMDK)** (*referred supra*) along with relevant observations reads as thus:-

“10. After the Election Symbols Order was promulgated, some of its provisions were challenged on the ground of their constitutional validity. One of the questions raised was whether under the aforesaid Order, the Election Commission could have vested itself with the powers contained in Para 15 thereof, reserving to itself



powers to settle issues in relation to splinter groups or rival sections of recognised political party, each of whom claimed to be the original party. The decision of the Commission was made binding on all the rival sections and groups.

11. The said question fell for the decision of this Court in Sadiq Ali v. Election Commission of India [(1972) 4 SCC 664] and it was held by a three-Judge Bench of this Court that Para 15 was intended to effectuate and subserve the main purposes and objects of the Symbols Order. It was observed that the paragraph was designed to ensure that because of a dispute having arisen in a political party between two or more groups, the entire scheme of the Election Symbols Order relating to the allotment of a symbol reserved for the political party, was not frustrated.

12. This Court in Sadiq Ali case [(1972) 4 SCC 664] took note of the fact that the Election Commission had been clothed with plenary powers by Rules 5 and 10 of the Conduct of Elections Rules, 1961, in the matter of allotment of symbols, the validity whereof had not been challenged. This Court, therefore, came to the conclusion that the fact that the power to settle such disputes had been vested in the Commission could not constitute a valid ground for assailing the vires of the said clause. Since the said decision has also been referred to by the learned counsel for the parties in extenso, we will revert back to the same at a later stage in this judgment.

13. The same view was also expressed by this Court in All Party Hill Leaders' Conference v. Captain W.A. Sangma [(1977) 4 SCC 161] and in Roop Lal Sathi v. Nachhattar Singh Gill [(1982) 3 SCC 487] wherein while dealing with the provisions of Para 13 of the Symbols Order, this Court held that the dispute relating to the procedure for setting up of candidates could be the subject-matter of an election petition under Section 100(1)(d)(iv) of the Representation of the People Act, 1951.

.....

49. The submissions made on behalf of the writ petitioners regarding the constitutional validity of the Election Symbols Order, 1968, and the power of the Election Commission to settle issues relating to claims of splinter groups to be the original party, had fallen for the decision of this Court about forty years ago in Sadiq Ali case [(1972)



4 SCC 664] , when this Court had occasion to observe that the Election Commission had been clothed with plenary powers by Rules 5 and 10 of the Conduct of Elections Rules, 1961 in the matter of conducting of elections, which included the power to allot symbols to candidates during elections. The challenge to the vires of the Symbols Order, 1968 was, accordingly, repelled.

50. The view in Sadiq Ali case [(1972) 4 SCC 664] has since been followed in All Party Hill Leaders' Conference case [(1977) 4 SCC 161] , Roop Lal Sathi case [(1982) 3 SCC 487] , Kanhiya Lal Omar case [(1985) 4 SCC 628] and as recently as in Subramanian Swamy case [(2008) 14 SCC 318] , to which reference has been made in the earlier part of this judgment, where the provisions of Article 324 of the Constitution vesting the superintendence, direction and control of elections, were considered in detail and it was, inter alia, held that in addition to Rules 5 and 10 of the Conduct of Elections Rules, 1961, the powers vested in the Election Commission could be traced to Article 324 of the Constitution.”

22. Similarly, in the matter of **Anoop Baranwal Vs. Union of India** (referred supra), the Constitution Bench had considered the provisions of Symbols Order 1968 in the light of RP Act 1951. The Constitution Bench while dealing with similar issue in the said judgment has made following observations :-

223. Apart from the 1950 and 1951 Acts, the Code of Election Rules, 1961 came to be made. In the year 1968, the Election Symbols (Reservation and Allotment) Order, 1968 (hereinafter referred to as “the Symbols Order”) came to be made by the Notification dated 31-8-1968, in exercise of powers conferred under Article 324 of the Constitution read with Section 29-A of the 1951 Act and Rules 5 and 10 of the Conduct of Election Rules.

.....

232. The Model Code of Conduct, the views of this Court about appeal to religion, being a corrupt practice, and Para 16-A of the Symbols Order, empowering the Commission to act in the face of defiance, constitute a powerful weapon in the hands of an independent and impartial Election Commission. Placing the



exclusive power to appoint with the executive, hardly helps.

233. *In regard to the Symbols Order, this Court in Sadiq Ali v. Election Commission of India [Sadiq Ali v. Election Commission of India, (1972) 4 SCC 664], upheld the vires of the Symbols Order. This Court, inter alia, held as follows: (SCC p. 682, para 40)*

“40. ... The Commission is an authority created by the Constitution and according to Article 324, the superintendence, direction and control of the electoral rolls for and the conduct of elections to Parliament and to the Legislature of every State and of elections to the office of President and Vice-President shall be vested in the Commission. The fact that the power of resolving a dispute between two rival groups for allotment of symbol of a political party has been vested in such a high authority would raise a presumption, though rebuttable, and provide a guarantee, though not absolute but to a considerable extent, that the power would not be misused but would be exercised in a fair and reasonable manner.”

(emphasis supplied)

234. *It is further found that when the Commission issues directions, it does so on its own behalf and not as a delegate of some other authority. This was on the construction of Article 324(1).*

235. *This Court upheld the power of the Election Commission of India to rescind its order according recognition to a political party, even without elections having been held in all the States in the country [see Janata Dal (Samajwadi) v. Election Commission of India [Janata Dal (Samajwadi) v. Election Commission of India, (1996) 1 SCC 235]].*

236. *In Indian National Congress (I) v. Institute of Social Welfare [Indian National Congress (I) v. Institute of Social Welfare, (2002) 5 SCC 685] , no doubt, this Court took the view that the Election Commission has not been conferred with the express power to deregister a political party registered under Section 29-A, on the ground that it violated the Constitution or any undertaking given to the Election Commission at the time of its registration. This Court went on to hold also that while exercising its power to register a political party under Section 29-A, the Commission acts quasi-judicially. The Court also set out the three exceptional cases where the Commission could review its order for registering a political party. It includes obtaining registration by practicing fraud or forgery.*



237. We may notice that under Para 16-A of the Symbols Order, the Commission has been empowered to suspend or withdraw the recognition of a party as a national or a State party, after giving a reasonable opportunity. One of the grounds on which it can be so done is refusal or defiance, apart from failure to observe the provisions of the Model Code of Conduct for Guidance. Therefore, after 1994, enormous powers have been conferred on the Election Commission to ensure compliance with the Model Code of Conduct for Guidance of Political Parties issued by the Election Commission in 1991 or as amended by it from time to time. The power can also be exercised under Para 16-A in regard to failure or defiance in the matter of following lawful directions and instructions by the Commission.

238. In *Subramanian Swamy v. Election Commission of India* [Subramanian Swamy v. Election Commission of India, (2008) 14 SCC 318], this Court held that the purpose of making the Symbols Order was to maintain the purity of elections. The Court highlighted the duty of the Election Commission to hold free, fair and clean elections.

.....

240. Dealing with the ambit of Para 18, this Court held, inter alia, in *Edapaddi K. Palaniswami v. T.T.V. Dhinakaran* [Edapaddi K. Palaniswami v. T.T.V. Dhinakaran, (2019) 18 SCC 219], as follows : (SCC p. 234, paras 24-25)

“24. Indeed, allotment of an election symbol cannot be claimed as a fundamental right as much as contesting election is not, as observed in *Jyoti Basu v. Debi Ghosal* [Jyoti Basu v. Debi Ghosal, (1982) 1 SCC 691]. It is a statutory right. It is also well settled that the Election Commission has plenary powers and could exercise the same to ensure free and fair elections. Para 18 of the Symbols Order predicates the facet of such plenary power to be exercised by the Election Commission. Para 18 reads thus:of elections.’

25. The Election Commission in the past has exercised plenary powers under Para 18 for issuing interim directions regarding allocation of common symbols to the two factions, when the dispute under the Symbols Order was still pending before it. It was argued that the Election Commission cannot do so once it had finally decided the dispute. There is no difficulty in agreeing with the proposition that once the dispute had been finally decided by ECI, the question of invoking powers under Para 18 by it (ECI) would not arise. However, if the dispute is



pending enquiry before ECI or the final decision of ECI is sub judice in the proceedings before the constitutional court, providing for an equitable arrangement in the interests of free and fair elections and to provide equal level playing field to all concerned, would be a just and fair arrangement.”

241. *The above observations indicate the width of the powers available to the Election Commission.*

23. Apart from the above, the contentions which are sought to be canvassed by the petitioner viz. the privileges conferred into a ‘recognized’ political party and a ‘un-recognized’ political party discriminates the constitutional mandate under Article 14, was also looked into, wherein the Hon’ble Apex Court was of the view that it is the Statute which provides for compartmentalization and such compartmentalization is based on the constitutional mandate provided under Article 324 of the Constitution, from where, the source is gathered for the purpose of issuance of the Order.

24. Apart from above, the allotment of Election Symbols cannot be claimed as a fundamental right in the matter of contesting of election as is held in the matter of *Jyoti Basu & Ors. v. Debi Ghosal & Ors.*” [(1982) 1 SCC 691].

25. In the matter of *Desiya Murpokku Dravida Kazhagam (DMDK)* (referred supra), the Hon’ble Apex Court has also considered the violation of law relating to criteria for a Political Party to be recognized as a State Party. The Hon’ble Apex Court while dealing with the provisions to that effect has held that Election Commission, in its wisdom, was of the view that in order to recognize a political party, it is necessary to achieve certain benchmark in the State Politics. The benchmark which the Election Commission has set on is held to be not unreasonable. As such, party is



required to prove itself and to establish its credibility as a serious player in the political arena of the State and only in case of qualifying such condition, it becomes entitled to the benefit of recognition including allotment of common Symbol.

26. In the aforesaid background, we are of the view that the petitioner is trying to re-agitate the same issues which are being dealt with and settled not only by the Constitutional Court in the matter of **Anoop Baranwal** (*referred supra*), but also the issues which are adjudicated and decided by the Hon'ble Apex Court in the judgments of **Sh. Sadiq Ali** (*referred supra*), so also in **All Party Leader's Conference, Shillong** (*referred supra*).

27. In view of the above, we see no reason to accept the contentions of the petitioner so as to hold that not only the Symbols Order 1968 is without any statutory powers, but the said Symbols Order, which is compendium of orders, is discriminatory, thereby discriminating amongst the 'recognized' and 'un-recognized' Political Party. That being so, the prayer for directions for declaration to the effect that respondent no.2-Election Commission of India has no authority or jurisdiction to frame the Symbols Order of 1968 or that of quashing of the paragraphs of the Symbols Order of 1968 cannot be permitted by this Court, particularly, when the judgments discussed hereinabove, in categorical terms, uphold not only the source of powers of respondent no.2 to frame the same, but also has gone into the object and purpose, for which, the Symbols Order of 1968 is framed by the respondent no.2-Election Commission of India.



2026:DHC:135-DB



28. That being so, the petitioner cannot be further held to be entitled for the relief of order of injunction, thereby restraining the respondents from enforcing the provisions relating to political party under the RP Act, 1951.

29. Just because the petitioner on account of its status as that of State Party is not able to enjoy the privileges conferred on a 'recognized' political party, by itself, will not lead to a discriminatory treatment being meted out to the petitioner as the privileges enjoyed by the 'recognized' political parties are based on the qualifications which are permitted and satisfied by them under the Symbols Order of 1968 and also the RP Act, 1951. The petitioner, in any case, cannot compare itself with the 'recognized' political parties as the petitioner is altogether in a different category than that of the 'recognized' political party.

30. That being so, the petition fails and stands dismissed accordingly.

31. Pending applications, if any, also stands disposed of.

32. Judgment be uploaded on the website of this Court.

**NITIN WASUDEO SAMBRE
(JUDGE)**

**ANISH DAYAL
(JUDGE)**

JANUARY 9, 2026/ay/as

Signature Not Verified

Signed By: AKASH
YADAV
Signing Date: 09.01.2026
16:43:35

W.P (C) No.2140/2019

Page 25 of 25